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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

1998 Biennial Regulatory Review--  
Review of ARMIS Reporting Requirements

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CC Docket No. 98-117

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COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY,  
PACIFIC BELL AND NEVADA BELL

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## SUMMARY\*

Under Section 11, the Commission should conduct a comprehensive review of all regulations, including all of the ARMIS reporting requirements. As a result of this review, the Commission should eliminate, or at a minimum radically simplify, all of the cumbersome, time-consuming and unnecessary sections of all of the ARMIS reports.

While the SBC LECs agree with the proposals to eliminate the paper versions of the reports and superfluous data regarding equal access, payphones and inside wire, these and the other NPRM proposals reflect a “token” effort at simplification. Out of the estimated 25,000 hours per year that the SBC LECs spend on the ARMIS reports, perhaps as little as 1% is spent printing, copying and shipping the paper versions of these reports. This *de minimis* relief from ARMIS requirements falls far short of the meaningful relief Congress intended in adopting Section 11.

Instead of only eliminating a token part of the ARMIS burden, as proposed in the NPRM, the Commission should eliminate all of the non-essential reports, tables and data. To the extent they are not, the Commission should justify the remaining data in terms of a cost/benefit analysis of every one of the essential functions that require each item to be reported.

Specifically, the simplification recommended by the SBC LECs in these Comments include the following:

- (a) The financial ARMIS reports (43-01 through 43-04) should be combined in a single simplified report, such as the sample attached to these Comments as Exhibit “B.” The Class B account structure should be used.

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\* The abbreviations used in this Summary are defined in the body of these Comments.

(b) Most of the 27 tables in the ARMIS 43-02 report should be eliminated, including the 21 tables that the NPRM proposes to eliminate only from the mid-sized ILECs' ARMIS 43-02 reports.

(c) The entire ARMIS 43-03 report should be eliminated because a summary of its arguably essential data is in the ARMIS 43-01 report.

(d) The network ARMIS reports (43-05 through 43-08) have outlived their useful and should be eliminated, or at a minimum, radically simplified. The simplification recommended by the SBC LECs is explained in Exhibit "A" to these Comments. It includes elimination of the following tables: Tables I through III and V of the ARMIS 43-05 report, all Tables of the ARMIS 43-06 report, Tables I, III and IV of the ARMIS 43-07 report and Tables II, III and IV of the ARMIS 43-08 report. In addition, other tables should be simplified.

(e) The ARMIS 495A/B reports should be eliminated along with the Part 64 network investment forecasting requirement.

This comprehensive simplification of the ARMIS reports should apply to all ILECs and especially to those that are subject to price cap regulation. Relief from ARMIS reporting requirements should not be limited to mid-sized ILECs as proposed in the NPRM. Limiting relief from the financial ARMIS reports to the mid-sized ILECs, which are almost all rate-of-return regulated, is not reasonable or justified when the largest ILECs are all subject to price cap regulation, which eliminates much of the need to have this data reported.

Under Section 11, the Commission needs to consider the high level of competitive activity facing the Class A ILECs, both the mid-sized and the largest ILECs. Instead of removing or streamlining regulation where there is more competitive activity, the NPRM uses the contention that there is a higher level of nonregulated or competitive activity among the largest ILECs as a justification for retaining all of the detailed ARMIS reporting only in the case of the largest ILECs.

The NPRM's reasons for limiting relief to the mid-sized ILECs are unfounded and the NPRM ignores factors such as price cap regulation and local exchange competition, which justify expanded relief for price cap ILECs. The NPRM contends that accounting and reporting at "the Class A level of detail is critical for monitoring large incumbent LECs because such carriers typically conduct a higher volume of transactions involving competitive services." In reality, the level of competitive or nonregulated activity is not so different at the mid-sized companies compared to the largest ILECs. On the contrary, the percentage of nonregulated activity reported by a typical mid-sized company is comparable to or greater than the percentage of nonregulated activity reported by the BOCs. For example, on the average, about 17% of the mid-sized ILECs' operating expenses are attributable to nonregulated activities, as compared to only 8.6% of the SBC LECs' operating expenses.

A separate reason provided by the NPRM for continuing to apply the Class A accounts and ARMIS reporting to the largest ILECs is to enable the Commission to perform its duties to prevent cross-subsidy under Sections 260, 271-276 and 254(k) of the Communications Act. However, the Commission can enforce these sections without Class A accounting and reporting. The primary accounting safeguard with which these sections are concerned is the protection of ratepayers from cross-subsidizing nonregulated or competitive activities. Aside from price cap regulation, the Part 64 cost allocation is the primary regulatory tool to protect ratepayers from cross-subsidy. A Class B CAM is equally as effective as a Class A CAM in performing this regulatory function and detailed ARMIS reporting is not needed for this purpose.

The NPRM's line-drawing between the mid-sized and the largest ILECs is flawed. The NPRM's reasons do not support limited relief only for the mid-sized ILECs and other reasons, such as price cap regulation and local exchange competition, weigh heavily against excluding the largest ILECs from the proposed relief.

A comprehensive Section 11 ARMIS review would not be complete without consideration of the need for the four network ARMIS reports (43-05 through 43-08). The Commission adopted the first three of these reporting requirements when it introduced price cap regulation out of a concern that some features of price cap regulation could create incentives to reduce service quality and investment in network infrastructure. These problems have not materialized. Any remaining benefit of these reports is minimal and is easily outweighed by the thousands of hours and millions of dollars being spent unnecessarily by ILECs to prepare and file reports that are seldom of any practical utility in performing any essential functions. Now that competition, growth, technological evolution and economics are driving ILECs to deploy the latest technology and maintain their service quality, the Commission should no longer find it necessary to monitor these areas for purposes of price cap regulation.

Instead of perpetuating and expanding the old reporting requirements that do not produce any of their intended benefits, the Commission should narrowly tailor any remaining reporting requirements to accomplish only essential Commission tasks in a competitive environment.

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COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY, PACIFIC BELL  
AND NEVADA BELL<sup>1</sup>

I. INTRODUCTION.

SBC's Petition for Section 11 Biennial Review<sup>2</sup> recently requested that the Commission conduct a comprehensive review of all regulations, including the ARMIS reporting requirements. SBC's Section 11 Petition recommended an over-haul of ARMIS to eliminate, or at a minimum radically simplify, all of the cumbersome, time-consuming and unnecessary sections of all of the ARMIS reports. SBC's Section 11 Petition included a long list of specific ARMIS components that the SBC LECs had identified at that time as no longer being necessary in the public interest. Others likewise recently submitted proposals for a comprehensive review of the ARMIS reports to reduce the reporting burden for the entire industry. For example, Ameritech and BellSouth also submitted comprehensive proposals for streamlining the ARMIS reports. BellSouth's proposal even included sample report formats that it is recommending.<sup>3</sup>

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<sup>1</sup> Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell ("SBC LECs") are filing these Comments pursuant to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding released on July 17, 1998.

<sup>2</sup> SBC Petition for Section 11 Biennial Review, filed May 8, 1998 ("SBC's Section 11 Petition").

<sup>3</sup> Letter dated March 13, 1998 from Robin Gleason, Ameritech, to Kenneth P. Moran, FCC; Letter dated July 1, 1998 from Robert T. Blau, BellSouth to Kathryn C. Brown, FCC.

Despite these and other requests for a top-to-bottom review of regulations, including a complete review of all ARMIS reporting burdens, the scope of review and relief proposed in the NPRM reflects a “token” effort. The NPRM does not even seek comment on these alternative deregulatory proposals. Since this proceeding originated with the request for suggestions regarding proposed rule changes,<sup>4</sup> the Commission should address those suggestions in this proceeding. The NPRM impliedly rules out these other significant suggestions as if they were not even worthy of consideration or discussion, but the NPRM does not offer any explanation for its failure to consider these alternative proposals. The very limited relief considered in the NPRM leads one to wonder whether there is any serious intention of providing any meaningful relief from the burden of outdated regulation.

Even ITTA’s proposals for ARMIS relief for mid-sized ILECs went far beyond what the NPRM is considering for purposes of the Section 11 review.<sup>5</sup> If the Commission is going to limit its Section 11 review, it must adequately explain the basis for its decision to rule out significant alternative proposals, such as those of the ILECs and ITTA.

At a minimum, a proper Section 11 review of ARMIS should consider the SBC LECs’ proposals attached as Exhibit “A” to these Comments and the sample format for a revised ARMIS 43-01 report attached as Exhibit “B” to these Comments. Following a discussion of issues presented by the NPRM, these Comments describe the details of the SBC LEC proposals.

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<sup>4</sup> Report No. GN 98-1, “FCC Staff Proposes 31 Proceedings as Part of 1998 Biennial Regulatory Review,” released February 5, 1998 (“Beginning February 9, 1998, members of the public interested in offering further suggestions concerning the 1998 biennial review may send their suggestions regarding proposed rule changes and an appropriate analytical framework for analyzing such proposed changes . . .”).

<sup>5</sup> ITTA Petition for Forbearance, filed February 17, 1998.



## II. PAPER FILINGS ARE A VERY LIMITED PART OF THE OVERALL ARMIS BURDEN.

The SBC LECs support the NPRM's proposal to eliminate the requirements to file paper versions of the ARMIS reports.<sup>6</sup> The electronic copies filed on diskette are sufficient to enable the Commission to perform its duties. As the NPRM notes, paper filings have very little practical utility beyond furnishing copies in response to requests from the public.<sup>7</sup> As the NPRM does not indicate how often the Commission receives requests from the public, it is unclear whether it is a necessary function, and, in any event, the Commission could make electronic copies of the unrestricted versions available to the public. Furthermore, the Commission staff has already begun conducting tests to transmit ARMIS data directly to the Commission. The SBC LECs enthusiastically support this alternative to the filing of paper copies.

Contrary to the NPRM's assumption that elimination of the paper filings "will represent a substantial cost savings for all carriers,"<sup>8</sup> preparation of the paper versions is a very small fraction of the overall costs associated with ARMIS. The collection and processing of all the ARMIS data must still be performed, even if the paper filings are eliminated. The SBC LECs spend more than an estimated 25,000 hours per year preparing the annual ARMIS filings. Only a very small fraction of this total--perhaps as little as 1%—is spent printing, copying and shipping the paper versions of these reports. This *de minimis* relief from ARMIS requirements falls far short of the meaningful relief Congress intended in adopting Section 11.<sup>9</sup>

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<sup>6</sup> NPRM ¶ 2.

<sup>7</sup> *Id.*, ¶¶ 2-3.

<sup>8</sup> *Id.*, ¶ 2.

<sup>9</sup> The SBC LECs support the NPRM's proposal to make ARMIS data available via the Internet. NPRM, ¶ 3. Assuming the Commission could implement this proposal in a cost-effective

III. ALL NON-ESSENTIAL ARMIS REPORTS AND DATA SHOULD BE ELIMINATED, ESPECIALLY FOR PRICE CAP ILECS.

Instead of adopting only the *de minimis* relief that elimination of the paper filings represents, the Commission should review each and every section of the ARMIS reports to determine whether each is no longer necessary in the public interest. The NPRM starts this process by proposing to eliminate some of the most obvious superfluous data regarding equal access, payphones and inside wire.<sup>10</sup> The SBC LECs are in full agreement with this proposal. The Commission has no need whatsoever for data regarding equal access, payphones and inside wire. Payphones and inside wire have been deregulated and the Commission has no ongoing need for service-specific data about nonregulated products and services. Moreover, in today's competitive environment and in view of price cap regulation, the Commission has little, if any, continuing need for much of the data in the ARMIS reports, whether or not it relates to regulated services. Also, to the extent data is still essential, duplicative data should be eliminated by consolidating reports that have the same or similar data.

The same type of analysis that lead the Commission to tentatively conclude to eliminate equal access, payphone and inside wire data should lead the Commission to the same conclusion concerning other ARMIS data, categories and tables and even entire reports. The Commission should extend the same type of analysis throughout the ARMIS reports.

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manner, the Commission should adopt this proposal and make the streamlined, unrestricted versions of ARMIS reports available via the Commission's Internet web site. While requests may not be very frequent, locating the data or reports requested can be time-consuming. In the long run, Internet access to these reports may save significant Commission resources in responding to requests for ARMIS data and would facilitate access to such data, especially for those that do not have easy access to the Commission's public reference rooms.

<sup>10</sup> NPRM, ¶¶ 4-5.

The SBC LECs' specific proposals for streamlining the ARMIS reports are contained in Exhibit "A" to these Comments.

For example, the SBC LECs recommend combining the ARMIS 43-01 and 43-02 reports into one simplified report containing essential cost and financial information. This combined report would also contain any data that survives from the ARMIS 43-03 and 43-04 reports, which SBC proposes be almost completely eliminated. In addition, Exhibit "A" describes specific changes to each of the ARMIS 43-01 and 43-02. Many tables and lines in the ARMIS 43-01 and 43-02 are not essential for any Commission function. For example, Exhibit "A" shows that most of the twenty-seven tables in the ARMIS 43-02 that are not needed for any essential Commission function, including Tables C-3, C-4, B-1 through B-4, B-9 through B-15, I-1, and I-3 through I-6.<sup>11</sup>

The Commission apparently agrees with much of the SBC LECs' proposed streamlining of the ARMIS 43-02 because the NPRM proposes to eliminate many of the same tables previously identified in SBC's Section 11 Petition from the ARMIS 43-02 reports filed by mid-sized ILECs.<sup>12</sup> The NPRM states that "routine reporting of the balance sheet information contained in tables B-3 and B-5 through B-15 may not be crucial for eligible reporting carriers to report on a regular basis."<sup>13</sup> The Commission reasons as follows:

Because we will continue to have access to the underlying data and source documents, we tentatively conclude that eliminating these reporting requirements will not impair our ability to perform necessary oversight functions.<sup>14</sup>

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<sup>11</sup> See SBC's Section 11 Petition, Exhibit C.

<sup>12</sup> NPRM, ¶ 8.

<sup>13</sup> Id., ¶ 8 (footnote omitted).

<sup>14</sup> Id.

This same reasoning is applicable to the largest ILECs that are subject to price cap regulation. In fact, in view of price cap regulation, impairment of the Commission's oversight functions would be even less likely in the case of price cap ILECs compared to the largest ILECs. Under price cap regulation, prices are determined based on productivity/inflation indexing rather than based on costs. Review and analysis of inordinate cost detail no longer serves the purpose of establishing prices.

Elimination of other ARMIS data and reports also would not impair those of the Commission's oversight functions that continue to be essential with respect to any ILEC.

The ARMIS 43-03 can be eliminated because the only arguably essential data in the ARMIS 43-03 is already summarized in the ARMIS 43-01. The vast majority of the ARMIS 43-04 can be eliminated because the incredible amount of detailed data it contains serves little, if any, ongoing need, especially for price cap ILECs. The SBC LECs' proposed format for the ARMIS 43-01 as revised to include some of the remaining data from the ARMIS 43-02, 43-03 and 43-04 reports is attached as Exhibit "B" to these Comments.

On the non-financial side, the ARMIS 43-05 through 43-08 reports have outlived their usefulness and should be eliminated or, at a minimum, radically simplified. In the event these reports are not eliminated at this time, Exhibit "A" contains a list of specific changes to the ARMIS 43-05 through 43-08 reports which should be adopted now.

Likewise, the investment usage reports (495A/B) should be eliminated because the Part 64 network investment forecasting requirement is not necessary, especially for price cap ILECs.<sup>15</sup>

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<sup>15</sup> SBC's Section 11 Petition at 34 and Exhibit D.

Instead of only eliminating a token part of the ARMIS burden, as proposed in the NPRM, the Commission should eliminate all of these non-essential reports, tables and data. To the extent they are not, the Commission should justify the remaining data in terms of a cost/benefit analysis of every one of the essential functions that require each item to be reported. Many of the reporting requirements are unnecessary either because the data is being collected for no apparent reason or for a Commission function that can be eliminated or because the underlying data is available to the Commission on an as-needed basis, as the Commission recognizes in its proposals to eliminate 21 tables from the ARMIS 43-02 filed by mid-sized ILECs.

Further, as discussed below, meaningful streamlining of the ARMIS reporting requirements should be implemented across-the-board for all ILECs, instead of being limited in scope and limited to the mid-sized ILECs, as proposed in the NPRM.

IV. THE ARMIS REPORTING REQUIREMENTS SHOULD BE STREAMLINED FOR ALL ILECS, NOT MERELY FOR RATE-OF-RETURN MID-SIZED ILECS.

The SBC LECs' proposed simplification of the ARMIS reporting requirements should apply to all ILECs, not just the mid-sized ILECs.

The approach required by Section 11 is a top-to-bottom review of all regulations that apply to the activities of any service provider. Instead of considering how these regulations affect "any provider," the NPRM excludes almost 90% of the local exchange industry from all but a token few of its streamlining proposals. As explained below, the Commission cannot justify excluding the Bell Operating Companies ("BOCs") and the GTE Operating Companies ("GTE") from the scope of its Section 11 Biennial Review.

The NPRM proposes some meaningful relief from the ARMIS reporting requirements, but it proposes to grant this relief only to the mid-sized ILECs. For the mid-sized ILECs, the

NPRM proposes to eliminate 21 tables from the ARMIS 43-02 report and to permit the use of Class B accounts for the ARMIS 43-02, 43-03 and 495A/B reports.<sup>16</sup> Limiting relief to the mid-sized ILECs, which are almost all rate-of-return regulated, is not reasonable or justified when the largest ILECs are all subject to price cap regulation, which eliminates or reduces much of the need to have this data reported.

In CC Docket No. 98-81,<sup>17</sup> where the Commission is conducting its biennial review of accounting and cost allocation requirements, the SBC LECs questioned the need to continue applying detailed Class A accounting and other requirements to price cap and other ILECs.<sup>18</sup> There, the SBC LECs also questioned the Commission's proposal to limit relief from such accounting rules to the mid-sized ILECs.<sup>19</sup> For the same reasons that the detailed Class A accounting rules are no longer necessary, reporting of detailed accounting and other data is even less necessary. Further, the Commission's reasons for limiting relief are just as improper in this NPRM as they were in CC Docket No. 98-81. There is no legitimate basis to distinguish the mid-sized ILECs to grant relief only to them.

The Class A accounting rules, and many of the ARMIS reported categories that rely upon them, are hold-overs from rate-of-return regulation; as they have little, if any, relevance to the rate-setting process for regulated services. As demonstrated in SBC's Section 11 Petition, SBC

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<sup>16</sup> NPRM, ¶¶ 8-9, 11-12.

<sup>17</sup> 1998 Biennial Regulatory Review—Review of Accounting and Cost Allocation Requirements, CC Docket No. 98-81, Notice of Proposed Rulemaking, FCC 98-108, released June 17, 1998 (“Accounting Biennial Review NPRM”).

<sup>18</sup> SBC LECs Comments, CC Docket No. 98-81, filed July 17, 1998, at 5-17.

<sup>19</sup> Id. at 5-17.

is facing significant and escalating levels of local exchange competition.<sup>20</sup> The level of economic competition is especially high in metropolitan areas served in large part by the BOCs. Given the increasing level of competition and the evolution toward rate-setting that does not rely upon detailed, embedded book costs, especially for price cap carriers, who are no longer subject to any sharing mechanism, detailed accounting, recordkeeping and cost allocation requirements are no longer necessary in the public interest. Likewise, ARMIS reporting based on such requirements is even less necessary. It is simply not in the public interest to continue requiring price cap ILECs to comply with excessively and unnecessarily detailed regulatory bookkeeping and reporting requirements, designed for a rate-of-return environment, when their competitors' activities are not subject to any of the same type of regulatory impediments at all.

The NPRM proposes to deny relief to the largest ILECs for almost the same reasons as in CC Docket No. 98-81. First, the Commission believes it can maintain the necessary degree of oversight of "90% of the industry" (i.e., the BOCs and GTE) by applying Class B accounts and associated ARMIS reporting to the mid-sized ILECs because mid-sized ILECs allegedly have a lower level of "competitive" activity, and thus, less opportunity to cross-subsidize.<sup>21</sup> Second, the NPRM contends that the Commission needs the largest ILECs to report Class A accounting information to satisfy its statutory obligations under Sections 260, 271 - 276, and 254(k) of the Communications Act.<sup>22</sup> The NPRM explains that the "level of detail specified in the Part 32 accounting rules allows us to identify potential cost misallocations beyond those revealed by the

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<sup>20</sup> SBC's Section 11 Petition at 6-8.

<sup>21</sup> NPRM, ¶ 13. Cf. Accounting Biennial Review NPRM, ¶¶ 5-6, 12 ("much greater transactional volume of competitive services").

<sup>22</sup> Id.

Class B system of accounts.”<sup>23</sup> Third, the NPRM also adds a new reason for distinguishing the mid-sized ILECs that was not used to justify the proposed limitation of relief in CC Docket No. 98-81: That it costs mid-sized ILECs relatively more to comply. However, the reporting requirements are costly for all ILECs and their burden is unjustified in all cases, and especially in the case of price cap ILECs. So, any relative difference in cost is an insufficient basis to deny to some ILECs substantially all relief from unnecessary reporting requirements.

Under Section 11, the Commission needs to consider the high level of competitive activity facing the Class A ILECs, both the mid-sized and the largest ILECs. The meaningful economic competition throughout the local exchange industry is the criteria for removing or streamlining regulations such as detailed ARMIS reporting which is no longer necessary in the public interest. The NPRM’s analysis misapplies Section 11 because instead of removing or streamlining regulation where there is more competitive activity, the NPRM uses the contention that there is a higher level of nonregulated or competitive activity among the largest ILECs as a justification for retaining all of the detailed ARMIS reporting only in the case of the largest ILECs. In any event, both grounds for limiting the relief from detailed ARMIS reporting to mid-sized ILECs are unfounded, as discussed below.

First, unlike Section 10, Section 11 does not expressly contemplate removal of a regulation with respect to an individual “class of telecommunications carriers.”<sup>24</sup> The focus of the inquiry and analysis under Section 11 is much different than that of Section 10.<sup>25</sup> Even if relief for a “class” of carriers is available under Section 11, the “class” should be drawn using

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<sup>23</sup> Id.

<sup>24</sup> 47 U.S.C. § 160(a).



reasonable criteria that are based on the standard for Section 11 review. Size alone is not a sufficient basis for drawing the lines for a “class” under Section 11.

Under the reasoning of Illinois Public Communications Association v. Commission,<sup>26</sup> the Commission will not be able to justify the differential treatment of the BOCs and GTE compared to the mid-sized ILECs. Simply stated, the two factors used by the NPRM to justify such differential treatment do not support it and the NPRM has ignored factors such as price cap regulation and local exchange competition, which justify relief from detailed Class A bookkeeping and reporting requirements for price cap ILECs, and, perhaps, all ILECs.

In Illinois Public, the court struck down the Commission’s interim compensation plan for 800 and access code calls from payphones, because the court found the Commission had acted arbitrarily and capriciously in requiring payments only from large interexchange carriers (“IXCs”). The court questioned the Commission’s administrative convenience justification and reasoned that “administrative convenience cannot justify an interim plan that exempts all but large IXCs from paying for the costs of services received.”<sup>27</sup> Likewise, the Commission will not be able to justify exempting all but the largest six ILECs from the burden of Class A bookkeeping and reporting requirements, particularly when the basis for the partial exemption is unfounded.<sup>28</sup> Furthermore, the NPRM’s reasoning ignores factors that justify relief for the

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<sup>25</sup> See 1998 Biennial Regulatory Review - Testing New Technology, CC Docket No. 98-94, Notice of Inquiry FCC 98-118, released June 11, 1998, ¶¶ 3, 4, 16-24 (Section 11), 25-33 (Section 10).

<sup>26</sup> 117 F.3d 555, 565 (D.C. Cir. 1997) (“Illinois Public”).

<sup>27</sup> Id. at 565.

<sup>28</sup> Although the Commission does not expressly identify “administrative convenience” as the basis for its proposal in the NPRM, describing the proposal in terms of being able to monitor

largest ILECs.

The NPRM contends that in terms of “identifying potential cost misallocations,” accounting and reporting at “the Class A level of detail is critical for monitoring large incumbent LECs because such carriers typically conduct a higher volume of transactions involving competitive services.”<sup>29</sup> In reality, the level of competitive or nonregulated activity is not so different at the mid-sized companies compared to the largest ILECs. On the contrary, the percentage of nonregulated activity reported by a typical mid-sized company is comparable to or greater than the percentage of nonregulated activity reported by the BOCs. Charts comparing the level of nonregulated activity at some of the larger mid-sized companies to GTE and the BOCs’ nonregulated activity are attached as Exhibit “C”.

As the following figures from 1997 reflect, the NPRM’s assumption regarding differences in the level of nonregulated activity at the mid-sized ILECs is flawed:

	Operating Expenses	Nonregulated	
		Total Expenses	Investment
10 Mid-Sized ILECs	17.7%	15.6%	4.3%
SBC LECs	8.6%	7.0%	1.8%
6 Largest ILECs	9.2%	6.4%	2.0%

In fact, in most cases, the mid-sized ILECs have a higher level of nonregulated activity than the SBC LECs. For example, on the average, about 17% of the mid-sized ILECs’ operating

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“90% of the industry” by only including 6 companies in the scope of its most detailed accounting and reporting requirements suggests an “administrative convenience” rationale that is unrelated to the benefit of its regulatory activity.

<sup>29</sup> NPRM, ¶ 13 (emphasis added). Without elaborating, the NPRM also notes that Class A regulation helps the Commission “in administering the Commission’s universal service, access charge, and accounting rules.” *Id.* n. 30. This brief mention of other uses of Class A does not

expenses are attributable to nonregulated activities, as compared to only 8.6% of the SBC LECs' operating expenses. Eight of the ten mid-sized ILECs listed in Exhibit C to these Comments had more than 13% of their operating expenses go to nonregulated in 1997, as compared to only 8.6% for the SBC LECs. No matter what basis of comparison is used, the typical mid-sized ILEC had more nonregulated activity relative to its total operations than the SBC LECs. The mid-sized ILECs have not only relatively more nonregulated expenses, they also have more nonregulated revenue (10.3% vs. 6.3%) and investment (4.3% vs. 1.8%) than the SBC LECs. The same is true of the mid-sized ILECs as compared to the six largest ILECs as a group. The six largest ILECs, with 6⅓% nonregulated expenses, have a much lower level of nonregulated activity compared to the mid-sized ILECs in Exhibit C, with 15⅓% nonregulated expenses. Therefore, contrary to the NPRM's assumption, the relative amount of competitive or nonregulated activity is higher in many cases for mid-sized carriers as compared to the largest ILECs.

Accordingly, the relative degree of theoretical risk of harm to ratepayers from cross-subsidization is certainly no less for the mid-sized ILECs as compared to the largest ILECs. Even for the mid-sized ILECs with the lowest levels of nonregulated activity, the theoretical "opportunities to subsidize competitive services" are roughly the same for both groups relative to their respective size. Therefore, it would be arbitrary to exempt mid-sized carriers from the onerous burden of Class A bookkeeping and reporting while continuing to impose those same detailed safeguards on the largest ILECs. The ratepayer of the largest ILECs is no less deserving of relief from the indirect cost of Class A regulation and detailed ARMIS reporting than the

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attempt to distinguish mid-sized ILECs from the largest ILECs, and thus, the SBC LECs do not

ratepayer of the mid-sized company. In fact, given the protection provided by price cap regulation and local exchange competition, the largest ILECs have a better case for relief from the burden of unnecessary and outmoded regulation than many of the mid-sized ILECs.

While the relative amount of nonregulated or competitive products and services is not a basis to distinguish mid-sized ILECs from the largest ILECs, there are at least two significant distinguishing factors the Commission should consider in its Section 11 analysis. First, all of the largest ILECs are subject to price cap regulation and the Commission has eliminated the sharing mechanism that provided a direct link between accounting costs and prices. Second, the BOCs are subject to a greater level of local exchange competition than the mid-sized ILECs because the BOCs are more heavily concentrated in the large metropolitan areas where local exchange competition is most intense.

As the SBC LECs demonstrated in Comments filed in CC Docket No. 98-81, SBC submits that there are ample reasons to exempt all ILECs from the Class A accounting requirements.<sup>30</sup> For these same reasons, the NPRM cannot justify detailed Class A ARMIS reporting requirements. The main reason that across-the-board relief is justified is that Class A accounts and the associated ARMIS reporting are no longer necessary for the Commission to perform essential regulatory functions. Part 36 separations can function using Class B accounts. Further, the Commission can maintain the necessary degree of oversight and monitoring of all ILECs even if the ILECs use Class B accounts in their bookkeeping and reporting. The NPRM acknowledges that the Commission can maintain the necessary oversight to prevent cross-

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read this as another reason for limited relief.

<sup>30</sup> SBC LECs Comments, CC Docket No. 98-81, filed July 17, 1998, passim.

subsidy of competitive or nonregulated activities at the mid-sized companies.<sup>31</sup> This is no less true in the case of the largest ILECs. The NPRM does not provide any valid reason for concluding that Class A accounting and reporting are essential to identify potential cost misallocations. In fact, the primary safeguard against cross-subsidy (aside from price cap regulation), the Part 64 cost allocation rules, can function equally well using Class B accounts as they do using Class A accounts. To the extent that any regulatory mechanism such as the Part 64 cost allocation rules is still necessary in the public interest and requires detailed accounting data, that data is available from underlying accounting records. Thus, the necessary data can be maintained even if an ILEC uses Class B accounts.

A separate reason provided by the NPRM for continuing to apply the Class A accounts and ARMIS reporting to the largest ILECs is to enable the Commission to perform its duties to prevent cross-subsidy under Sections 260, 271-276 and 254(k) of the Communications Act.<sup>32</sup> A closer examination of the existing safeguards and reporting reveals that the Commission can enforce these sections even if an ILEC uses Class B accounts. The primary accounting safeguard with which these sections are concerned is the protection of ratepayers from cross-subsidizing nonregulated or competitive activities. Aside from price cap regulation, the same Part 64 cost allocation discussed above, as implemented in a carrier's individual Cost Allocation Manual ("CAM"), is the primary regulatory tool to protect ratepayers from cross-subsidy, as required by

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<sup>31</sup> NPRM, ¶ 8. See also Accounting Biennial Review NPRM, ¶ 5.

<sup>32</sup> NPRM, ¶¶ 6, 12.

provisions of these sections. As acknowledged in the Accounting Safeguards Order, the existing CAM requirements satisfy the accounting safeguard provisions of these statutory sections.<sup>33</sup> A Class B CAM is equally as effective as a Class A CAM in performing this regulatory function.

Whether a carrier uses a Class A CAM or a Class B CAM, costs will continue to be fully allocated between regulated and nonregulated activities using the same types of homogenous cost categories. There is no reason to believe that the cost pools in a Class B CAM will be any less detailed than those in a Class A CAM. Thus, the accuracy of the CAM process will not be affected at all by a change from Class A to Class B because the underlying cost pools will continue to contain all the necessary details concerning costs.

To the extent that misallocation of costs of nonregulated or competitive activities continues to be a concern, it is a concern that is equally applicable to the mid-sized and the largest ILECs, except to the extent this concern is reduced by price cap regulation applicable to the largest ILECs and one of the mid-sized ILECs. While these same concerns are reflected in the statutory sections upon which the NPRM relies, these sections as well as the pre-existing cross-subsidy concerns can all be satisfied even if the ILEC uses the Class B CAM. Thus, these sections are not a reason to require Class A bookkeeping or reporting of any ILEC.

The NPRM states that the Commission needs Class A accounts and ARMIS reporting for the largest ILECs to uphold its statutory obligations under Sections 260, 271-276 and 254(k). However, even assuming that there were truly a reason to require Class A accounting and reporting for purposes of any of these sections—which SBC has demonstrated there is not—two

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<sup>33</sup> Accounting Safeguards Order, CC Docket No. 96-150, 11 FCC Rcd 17539, ¶¶ 4-13, 24-26, 50, 108 (1996).

of these sections, 260 and 254(k), are applicable to all ILECs. Therefore, based on the NPRM's assumption that Class A accounts are necessary to perform the Commission's duties under these sections, it is unclear how the Commission believes it will be able to satisfy the requirements of Sections 260 and 254(k) with respect to mid-sized ILECs that would no longer maintain Class A accounts. In any event, SBC submits that the issue is moot because Class A accounting details are not necessary for purposes of any of these sections.

The NPRM presents all of these statutory sections as support for retaining Class A accounting and ARMIS reporting for the largest ILECs, but it does not discuss in any detail why Class A accounting and ARMIS reporting are needed for compliance with these sections. The NPRM provides only brief descriptions of some reasons for continuing to require the existing level of accounting and reporting.<sup>34</sup> None of these examples demonstrates that the ongoing burden of these requirements is outweighed by essential functions. For example, the NPRM claims that the existing detailed level of reporting will help the Commission enforce Sections 254(k) and 272, but it does not show why the same extensively detailed reporting is essential for these regulatory functions. Moreover, Section 254(k), which is equally applicable to all ILECs, is no reason to distinguish the largest ILECs from the mid-sized ILECs.

The SBC LECs do not agree with the NPRM's reasoning. As explained above, the ILEC's CAM will provide the same level of detail whether the ILEC uses Class A or Class B accounts. The only necessary difference in the CAM is that the cost pools will be organized under a fewer number of accounts. This is merely a difference in form that does not have any substantive impact on the accuracy of cost allocation. Thus, there is little, if any, loss in the

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<sup>34</sup> NPRM, n. 29.

refinement of the cost details provided by a Class B CAM compared to a Class A CAM. Even if there were some loss in detail as a result of reorganizing cost pools, this should not be a concern in view of other developments such as price cap regulation, elimination of the sharing mechanism and local exchange competition. These developments significantly reduce the need to police potential cost misallocations and to require extensive, detailed ARMIS reporting, especially for price cap ILECs.<sup>35</sup>

The NPRM proposed to deny the largest ILECs relief from detailed ARMIS reporting for virtually the same reasons that the Accounting Biennial Review NPRM proposed to deny such ILECs relief from the Class A accounts that form the basis for much of the detailed financial information reported in ARMIS. For the reasons discussed above, this line-drawing between the mid-sized and the largest ILECs is flawed. The NPRM's reasons do not support limited relief only for the mid-sized ILECs and other reasons, such as price cap regulation and local exchange

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<sup>35</sup> The NPRM provides one specific example from the Commission's experience in support of its contention that Class A accounts and the associated reporting are needed to identify improper cost allocations. NPRM, n. 19. However, the example does not support the retention of Class A accounts. Mainly, it ignores the effectiveness of the CAM in identifying regulated and nonregulated costs in more than sufficient detail regardless of the detail of the main accounts. The NPRM claims that having Account 7370 (Special Charges) enabled the Commission to identify misclassified lobbying costs. However, lobbying costs are not the only type of costs included in Account 7370. Other types of special charges are also included in Account 7370 such as charitable contributions, membership fees, penalties and fines and abandoned construction projects. Therefore, whether or not ILECs maintain Account 7370, information on the expenses recorded in the account is not sufficient to identify lobbying expenses. Instead, one would need to look at the internal accounting details maintained by ILECs. In fact, this is what the Commission staff did in the case of lobbying, as the BOCs received requests for internal accounting data after Allnet filed a formal complaint. Therefore, if lobbying expenses were recorded in Class B Account 7300, this would not impair the Commission's ability to obtain the same type of internal accounting data concerning lobbying expenses included in Account 7300. In either case, whether lobbying expenses are recorded in Account 7300 or Account 7370, the Commission has to obtain internal accounting data in order to specifically identify lobbying expenses.



competition, weigh heavily against excluding the largest ILECs from the proposed relief.

Moreover, detailed ARMIS reporting at the Class A level is not essential for any size ILEC.

Given the overwhelming support for relief from detailed accounting and cost allocation rules in the comments filed in CC Docket No. 98-81, it is clear that detailed Part 32 accounting and reporting is no longer necessary. Accordingly, the Commission should begin to take steps to simplify both accounting and reporting, including elimination of Class A details in all ILECs' ARMIS reports and elimination of unnecessary sections of the ARMIS reports such as the vast majority of the tables of the ARMIS 43-02 that the SBC LECs recommend eliminating across-the-board.

V. ESSENTIAL INFORMATION FROM THE ARMIS 43-01 THROUGH 43-04 REPORTS SHOULD BE COMBINED IN A SINGLE SIMPLIFIED ARMIS REPORT (EXHIBIT "B").

The SBC LECs agree with the NPRM's proposal to eliminate numerous tables (21 out of 27) from the ARMIS 43-02,<sup>36</sup> but this streamlining should apply to all ILECs that file ARMIS reports, not merely the mid-sized ILECs. This NPRM proposal recognizes the limited value of the detailed financial schedules of the ARMIS 43-02, especially in view of the availability of externally reported financial information such as SEC filings and underlying data and source documents in the ILECs' internal records.

This type of simplification can be expanded to all of the financial ARMIS reports. In

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<sup>36</sup> NPRM, ¶ 8. A couple of additional schedules, such as B-4 and I-2, might need to be added to the attached sample in order to complete the combined ARMIS 43-01. The NPRM states that it is proposing to eliminate 21 tables from the ARMIS 43-02 report out of a total of 27 tables and lists the 6 tables that it proposes to retain: B-1, B-2, B-4, C-3, I-1, and I-2. NPRM, ¶¶ 8-9. However, in listing the tables that it proposes to eliminate, the NPRM only includes 12 tables (B-3 and B-5 through B-15). NPRM, ¶ 8. The SBC LECs read the NPRM as proposing to eliminate all 21 tables, even though 9 of them are not on the list in paragraph 8 of the NPRM.